



November 13, 1992

Celeste A. Baker, Esq.
Assistant Attorney General
Opinion Committee
P.O. Box 12548
Austin, TX 78711-2548

RQ-474

600 RQ-474
file # AL-17994-92
ID# 17994
PM 11/13/92

Re: Review of Request for Open Records Decision previously assigned
ID# 17130. DR92-640

Dear Ms. Baker:

I am returning documents which you advised we release because you had determined that they had already been published and were not protected from disclosure by § 3(a)(3) of the Open Records Act. You advised that I return the documents to you with further explanation of our position that the documents are protected by § 3(a)(3). This letter brief is a supplement to the original Request for Decision assigned ID# 17130 which letter is intended to be incorporated herewith by reference as if fully set forth.

Exhibit "A" to this letter (and documents similar thereto) has not been released to anyone other than the Department of Housing and Urban Development ("HUD") in response to a Fair Housing Complaint. That document has not been released to any person or entity other than HUD and its investigators.

The respondent to a Fair Housing Complaint has ten days to respond in writing to the allegations of the complainant. This reply is served only on HUD and is not served on the individual complainant by either the respondent or HUD. In fact, any information received by HUD during the course of its investigation of the complaint must be kept confidential and may not be made public or used in evidence in a subsequent administrative or civil proceeding without the written consent of the persons concerned. See, 24 C.F.R. § 103.330. Once the investigator prepares a Final Investigative Report, the HUD legal department reviews all of the evidence to determine whether there is reasonable cause to believe that discrimination has occurred or is about to occur. If it is determined that there is no cause to believe that discrimination has occurred or is about to occur, HUD issues a written directive to the parties that the file will be closed in twenty days and requests for copies of documents collected during the course of the investigation will be accepted from the parties and responded to during that period. Of course, it must also be remembered that the complainant has the right to commence a civil action under § 813 of the Fair Housing Act any time within two years of the occurrence of alleged discrimination or its termination. You might find it helpful to contact Mr. John Eubanks, Director, Fair Housing Enforcement Division of HUD, P.O.

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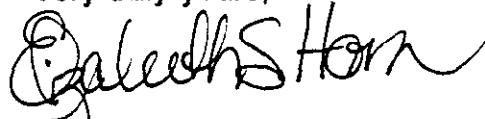
Box 2905, 1600 Throckmorton, Fort Worth, Texas, 76113-2905, telephone (817) 885-5521, for more information or confirmation of the process set forth above.

Based upon the foregoing, DHA contends that Exhibit "A" attached hereto is protected by the litigation exception contained in the Open Records Act and may be properly withheld from disclosure.

Exhibits "B" and "C" attached hereto are copies of documents contained in individual tenant files maintained by DHA. These documents are kept only in the file of the particular persons who created the documents, are not made in the regular course of DHA business and are not available for review by anyone other than the individual resident to whom the file pertains and DHA staff. Because these letters have not been made public, DHA contends that Exhibits "B" and "C" attached hereto may be withheld from disclosure.

I appreciate your continued assistance in reviewing this matter. If I can be of further help to you, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in black ink, appearing to read "Elizabeth S. Horn", written in a cursive style.

Elizabeth S. Horn
Associate General Counsel

ESH:wp
Enclosures

cc: The Walker Project, Inc.
(w/o enclosures)

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bcc: Lori Henderson
Mattye Jones